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INTERNATIONAL PEACE AND SECURITY AS AN ESSENTIAL CONDITION FOR THE ENJOYMENT OF HUMAN RIGHTS, ABOVE ALL THE RIGHT TO LIFE

Interrelationship between human rights and international peace

Supplementary working paper prepared by Mr. Murlidhar Bhandare to Sub-Commission resolution 1989/47 of 1 September 1989

INTRODUCTION

1. The present working paper has been prepared in accordance with Sub-Commission resolution 1989/47 of 1 September 1989 and supplemented in accordance with its resolution 1992/7 of 21 August 1992.

2. By paragraph 6 of resolution 1989/47, the Sub-Commission invited Mr. Murlidhar C. Bhandare "to prepare, without financial implications, a working paper on the problem of the interrelationship between international peace and the effective materialization of all human rights, particularly of the right to life and the right of development for consideration at its forty-third session".

3. In the same resolution, the Sub-Commission empnasized that strengthening of international peace and security, as well as the reduction of expenditure for arms, are important conditions for social and economic development and for the materialization of all human rights, particularly the right to life and the right to development. The Sub-Commission also emphasized that the problem

of interrelationship between human rights and international peace in all its aspects requires further examination, in particular taking account of the desire for transparency which, in certain regions of the world, is producing positive effects with respect to disarmament and peace.

4. The close interrelationship between the maintenance of international peace and security and the effective realization of human rights and fundamental freedoms is well established. The protection of human rights, one of the principal war aims of the Allies in the Second World War, was translated into reality with the formation of the United Nations. The Allies were convinced that the atrocities against the human person and the subversion of the international political system itself must never again be repeated. The greatest war to date led, understandably, to the greatest effort to protect and promote human rights and fundamental freedoms.

5. The linkage between human rights and international peace is reflected in the provisions of the Charter of the United Nations itself and is indicated right at the beginning, in its Preamble and first Article:

> "WE THE PEOPLE OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of man and women and of nations large and small ..."

6. Since the framing of the Charter, there has been an increasing international consensus that human rights, international peace and development are interrelated and interdependent. Promotion of one of these objectives enhances opportunities for securing the others. It is also well understood that the purposes and principles of the Charter are mutually supportive and interlocked and that peace and development are required for the full realization of human rights. Likewise, when human rights are disregarded, international peace and development are threatened.

7. The Sub-Commission first considered this matter at length in 1981 when it decided to include an item under agenda item 8 of its thirty-fifth session entitled "The effects of gross violations of human rights on international peace and security". The Secretary-General, in conformity with the wishes expressed by members of the Sub-Commission, provided basic information relevant to the discussion on this item in a note on this subject (E/CN.4/Sub.2/1982/18). Subsequently, at its thirty-seventh session, the Sub-Commission decided to consider the item as a separate one, entitled "Gross violations of human rights and international peace".

8. The fact that this relationship is complex is now beginning to be recognized. The Sub-Commission had considered this matter briefly during the course of its thirty-eighth session in 1985, when the Secretary-General had placed before it the guide to conventions, resolutions and reports of the United Nations concerning the adverse consequences of the arms race, particularly the nuclear arms race, for the universal realization of human rights (E/CN.4/Sub.2/1985/10) and the progress report of the Secretary-General prepared in accordance with Sub-Commission resolution 1984/30 (E/CN.4/Sub.2/1985/11).

9. Subsequent to these discussions a comprehensive report entitled "Interrelationship between human rights and international peace" (E/CN.4/Sub.2/1988/2) was prepared by the Secretary-General in accordance with Sub-Commission resolution 1985/2. The relevant international provisions and standards, declarations and resolutions adopted by the United Nations and its organs and agencies, as well as those of other intergovernmental organizations, are set out in this report.

10. The United Nations World Conference on Human Rights, held at Vienna in June 1993, was a landmark event in the field of human rights. The Conference adopted the Vienna Declaration and Programme of Action in which it approved the basic premises contained in the above-mentioned paper as well as views expressed in the Sub-Commission on the subject. The Vienna Declaration and Programme of Action is reflective of the spirit of our age and the realities of our times. Its expeditious implementation would now seem to depend on the nations of the world addressing themselves to a set of hard and practical considerations. These broadly focus on the following: (a) a commitment to the basic principle that respect for human rights and fundamental freedoms has to be without distinction as to race, sex, language or religion; (b) the existence in each society of an institutional structure for the promotion and protection of human rights and fundamental freedoms; (c) the existence of wide public support for the institutional structures in question; (d) the willingness of each State, and of public opinion, to review on a continuous basis the efficacy of these institutional safeguards and to rectify anomalies whenever and wherever necessary; and (e) the identification of obstacles to the promotion and protection of human rights and fundamental freedoms and the willingness of State, and/or the public, to overcome them.

11. A functional paradox remains to be addressed. Human rights are of universal validity and need to be applied universally. Yet the soil on which the seed is sown, and the plant nurtured, is often not uniformly fertile. Patches of aridity and salinity, sometimes inherent or inherited and occasionally man-made, do confront us from time to time and necessitate practical adjustments. These adjustments, if unavoidable, should be without prejudice to the goals which the world community has set for itself.

12. While the complex relationship between international peace and the realization of human rights is increasingly self-evident, following the widening of the concept of human rights and the greater elaboration and recognition of social, economic and cultural rights, this relationship has now assumed a more dynamic and comprehensive form than at any other time since the creation of the United Nations.

13. All in all, the twentieth century will go down as the bloodiest century in the history of mankind. The Second World War saw the detonation of the atom bomb, a weapon invented by man sufficient to wipe him off the face of our planet. The massacres in the two world wars caused more than 60 million military and civilian deaths in scores of countries. What is worse, the post-Second World War period has witnessed over 120 major conflicts around the world leaving 22 million dead. All through this period the world had peace out of a fear of war and not for the love of peace. The world languished in the culture of violence. A time has come to actively declare an agenda for promoting the culture of peace and human rights.

14. Even so, in the recent past, there have been promising and momentous changes all over the world. These changes have far-reaching implications for States, international organizations and for mankind in general. The assertion of the democratic rights of people in State after State has been one of the most important changes that has taken place and has transformed the structure of international relations beyond recognition. Nation after nation has rejected the old order, ushering in an era of democracy, freedom and equality. What is important is that these changes have come from within the wellsprings of the hearts of the people. The Berlin Wall has collapsed. Apartheid in South Africa has crumbled, ensuring liberty and freedom, and choice of government to the people, both black and white. In western Asia there is a better understanding resulting in a peaceful solution of a conflict that has confounded the world ever since the formation of the United Nations. Positive steps have been taken to destroy the deadly nuclear arsenal and to ban chemical weapons to restore some sanity to our planet. These developments mark a crucial turning point in human history and portend a promising future for present and future generations for a vibrant and growing culture of peace and human rights in a global environment of tolerance and harmony.

15. Against this background, the task today is to delineate a synthesis between international peace and the realization of human rights, and to define the implications of the relationship between the two which is grounded on a holistic and universal perspective of human rights. The time has never been as propitious as the present in the entire post-Second World War period.

16. An important element in such a synthesis is that international peace and the realization of human rights are both common concerns of mankind. They are both issues of fundamental importance; one concerns conditions that can provide credible guarantees for the survival of mankind and the protection of the right to life, and the other, conditions that are conducive to the full realization of the potential of human creativity. The international community has a common responsibility in this regard; the logical implication is that it is a legitimate interest of mankind to concern itself with matters relating to international peace and the realization of human rights. This emphasizes the need to look at other correlated factors which foster at once both peace and human rights.

17. Flowing from the recognition that the preservation of international peace and the realization of human rights are shared and common concerns of mankind, is the requirement of a qualitatively greater degree of international cooperation than has existed so far. To begin with, a revitalization of the multilateral structures under the United Nations for peace, security, human rights, disarmament and development is called for. The whole of mankind stands for a drastic reduction in global military expenditure, for the elimination of all weapons of mass destruction and for the free and unfettered exercise of human rights. However, these laudable objectives cannot be imposed on a discriminatory basis through the use of economic or political power. Political and economic conditionalities have little relevance to the realization of the above-mentioned objectives. Efforts should be directed at stimulating the urge for peace, human rights, democracy, development and disarmament from within the societies and States concerned.

18. The right to life is the most important amongst all human rights legally guaranteed and protected by contemporary law. It is a basic right from which all other human rights flow. Right to life includes all the aspects that make man's life meaningful, complete and worthwhile. It thus encompasses every right that secures to an individual a right to live with dignity, free from want and fear. It naturally includes the right to basic material needs, such as food, clothing, health, shelter, education, employment, leisure and safe and healthy environments coupled with personal freedom and security. Thus, the right to life is the one which is above all connected with and dependant on a climate of peace and an environment of security and development contributing to the enjoyment of all human rights, civil, political, economic, social and cultural.

19. Peace and human rights have to be nurtured in a proper environment because peace and human rights are indivisible, both have common components for their preservation, protection and promotion: democracy, development, education, tolerance, environment, security and disarmament.

20. There must be democracy not only amongst people but equally amongst nations. No country can ensure peace unless it is a democratic society upholding human dignity and the rule of law. The agenda for our world must be rapid democratization so that people become their own masters and protect their own destiny in a climate of peace and human development.

21. There have been distortions causing development to take place at the cost of democracy. The balanced and sustainable development of all people within a democratic environment is essential for the preservation of peace. There is a logical interdependence between democracy and development on the one hand and the preservation of peace and the protection and promotion of human rights on the other. The right to development is now recognized as a fundamental human right. There is also the issue of human security. Human security is a very positive aspect. It is not merely military or physical security but increasingly includes social and economic security. It comprises everything that guarantees human dignity. It includes the security of a safe and healthy environment, security of human development through education, adequate nutrition, health care, clothing and shelter, and the security of employment. It is the security of individuals at home and outside.

22. The realization of all human rights, particularly the right to life and the right to development, encompasses more than individual liberties and fundamental rights and freedoms conferred on a person. It covers aspects of human development in terms of security, social welfare, education and health as an integrated package. These objectives can only be nurtured in an environment where the right of every nation, every society and every person to life, freedom, peace and the pursuit of happiness is recognized. The use or threat of force must be abandoned and a spirit of tolerance and harmony promoted. The right of every people to make his or her own social, political and ideological choices must be respected. Policies that seek to establish the domination of some over others must be renounced. Human rights can be realized in the true sense only in an environment of social justice and equality of opportunity. It calls for the participation of people in the process of development and decision-making at all levels. It requires a return to cultural moorings, deriving sustenance from them and tapping the

creative potential of individuals, societies and States. It includes the right of every person to live in dignity, in a clean, safe and healthy environment. Societies and States must also have the means at their disposal to achieve the objectives mentioned above. Food security is an obvious example. This is a function not only of the production of food but also of the purchasing power of the people to buy available food. Access to resources is a prerequisite for a decent life and to bring about a feeling of well-being. Rights and freedoms also imply choice and choice calls for resources. There can thus be no freedom unless human beings are released from the bondage of want.

23. Some societies and States may find it difficult to pursue enlightened approaches in a global situation where protectionism is rising, the debt burden is increasing, the terms of trade for commodities are continuing to deteriorate and reverse resource flows from the poorer to the richer areas of the world are taking place. It is these concerns that must be redressed in tackling the problem of the relationship between international peace and the realization of all human rights.

24. War is an anachronism in today's world. Nuclear weapons threaten life on Earth and the immortality of the human race. Scholars, scientists, strategic thinkers, peace organizations all over the world and responsible statesmen are agreed that such a situation cannot be allowed to continue. There is a growing international consensus for banning nuclear weapons testing, halting production of materials for use in nuclear weapons and ultimate denuclearization of the whole planet. This consensus must be pushed to its logical end. Simultaneously, there is a growing universal urge for peace. International relations must, therefore, be so structured that confrontation is replaced by cooperation and conflicts resolved through peaceful political means and not through military ones. Mistrust, fear and suspicion between peoples, societies and States distort perceptions of the real world.

25. Within the United Nations there has been a sea change. The era of vetoes is over. Today the United Nations family has grown to 184 from the original 50 States at the time of the signing of the Charter. There is an accepted universal consensus amongst all the members of the United Nations to promote the culture of peace and human rights in a climate of tolerance, transparency and harmony. This culture has great promise in enforcing democracy, ensuring development and attacking poverty, want, hunger, intolerance and discrimination. This is the opportune moment for effective steps to be taken in a concerted manner by the international community by making full use of the available legal instruments and of the agencies of the United Nations. The Security Council will increasingly have to play a positive role. The action programme of the United Nations of preventive diplomacy, peace-making, peace-keeping and peace-building ought to be given top priority. The various actions to this end are outlined in the recommendations herein.

26. It is true that over the last seven years, global military expenditures have cumulatively fallen by US$ 500 billion, but as yet this has not been made available for human development. Even third world countries are spending two to three times as much on arms as on the education and health of their people.

27. Unfortunately, the inherent right of all States to self-defence, as embodied in Article 51 of the Chapter of the United Nations, has led to an excessive accumulation of conventional arms tending to create grave threats to peace. Such excessive accumulation is usually based on misconceptions as well as miscalculations resulting from the lack of information about arms transfers and military capabilities. Excessive accumulation of arms could be avoided by significantly increasing openness and transparency in international arms transfers. States should exercise voluntary restraint in the production of arms and arms transfers and for this purpose there should be national legislation and suitable laws and administrative procedures for the regulation of production and transfer of arms. Transparency of the information on arms build-ups by a nation will go a long way in eliminating avoidable competition among nations. It must, however, be realized that the register in itself cannot be a substitute for further arms reduction and measures of disarmament. After the successful conclusion of disarmament of chemical weapons, and the promise of a nuclear-free world in the near future, there is an urgent need to reduce conventional weapons. Civil wars have been fought almost exclusively with conventional weapons and hence the pressing need for effective global control and transparency over arms build-ups and transfers.

28. Serious threats to peace, democracy, human rights, security and development emanate from the scourge of terrorism. It destroys the most fundamental of all human rights - the right to life, particularly of innocent people. Terrorism, by its very nature, denies all that is legitimate in civil society and threatens its very existence. It threatens the social compact on which every civil society is founded. It replaces civilized law by the law of the jungle. Terrorism has emerged as the single biggest impediment in the preservation of peace. The culture of peace and human rights has to be guarded against terrorism by the determined collective action of the international community.

29. Philosophies and policies based on violence and intimidation, inequality and oppression, and discrimination on the basis of religion or colour are the very antithesis of human progress. They spread intolerance, destroy man's noble aspirations and negate all human values, which lie at the very basis of all human rights. Respect for human rights and fundamental freedoms and the elimination of racial discrimination and racism, apartheid, colonialism and foreign occupation are important conditions for securing international peace and human rights.

30. The rise of racism and xenophobia in several countries, at a time when apartheid has come to an end in South Africa, is a matter of serious concern. Intolerance in diverse forms; religious, racial, linguistic and ethnic extraneously encouraged separatist and cessationist movements; non-democratic Governments and, above all, poverty and socio-economic inequalities are serious impediments in the path of peace and human rights alike. The preamble to the International Convention on the Elimination of All Forms of Racial Discrimination spells this out as follows:

> "... discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among people and the harmony of persons living side by side even within one and the same State".

31. Threats to peace emanate from acute discrimination in the matter of human rights of minorities, national, ethnic, social, religious or linguistic. This results in a feeling of alienation. The protection of minorities and their human rights is particularly necessary to preserve peace. It must be realized that regardless of their nature, minorities have some rights that are not the same as those of the majority. The protection of such rights constitutes the core of a democratic society. The other vulnerable groups which require special attention and protection are, among others, indigenous people, women, children, the disabled, migrant workers and refugees.

32. Education is an essential and effective tool for the development of the consciousness of the individual and society. It builds up the personality of individuals by developing the whole of their personal capacities, attitudes, aptitudes and knowledge. It promotes understanding and cooperation both nationally and internationally.

33. Article 26, paragraph 2, of the Universal Declaration of Human Rights states:

> "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial and religious groups, and shall further the activities of the United Nations for the maintenance of peace."

To achieve this universally education should:

(a) Promote understanding and respect for all people, their cultures, civilizations, values and ways of life, including domestic ethnic cultures and cultures of other nations;

(b) Create awareness not only of the rights but the wishes of individuals, social groups and nations vis-à-vis each other;

(c) Promote consciousness of the imperative of national and international solidarity and cooperation; and

(d) Inculcate a sense of social responsibility and of solidarity with less privileged groups and observance of principles of equality in everyday conduct.

34. In other words, human rights education should be an integral part of education for all. Education would then result in shaping a human mind to love peace, abhor violence, to respect human rights and avoid discrimination.

Only an educated person can protect human rights and democracy and effectively work for development. Education is thus a pivotal human right in spreading the culture of peace, human rights, tolerance and harmony.

35. The conflicts of the future are more likely to be among people than among nations as we are seeing in several parts of the world including Angola, Somalia, Liberia, Bosnia and Herzegovina and recently in Rwanda. While the United Nations instruments, organs and agencies are strengthened to meet the challenge, it is equally necessary to ensure that there exists a proper infrastructure for protection of human rights and preservation of peace within a society in every nation. The following are some of the mandatory requirements essential to provide such infrastructure:

(a) There should be constitutional guarantees for all basic human rights and fundamental freedoms, including the rights of minorities. These guarantees should be secured and enforced by due process of law;

(b) The organs of the States, such as an independent and impartial judiciary, a strong democratically elected legislature and a responsive and accountable executive, should all strive to protect human rights, promote development and establish peace;

(c) The media, both the print and electronic, should be encouraged to be active and vibrant. The freedom of speech and expression is the first freedom. It is this freedom which secures in a society democracy, human rights, human development and, above all, harmony and peace. The media are the watch-dog which can expose the violations or the deficiencies in any of these spheres, and ask for corrective action. There should be no attempt to push under the carpet or to shield any violation of human rights or anyone guilty of such violation;

(d) NGOs are torch-bearers for humanity, harmony and happiness in our society. They should have a full say and play in the critical areas mentioned above;

(e) In addition to NGOs and the press, the other participants promoting the culture of peace and human rights should be the universities, professional organizations, employers and trade unions;

(f) There should be set up citizens' peace committees to anticipate, avoid and contain situations of violence. In all the above bodies, there should be active participation by women;

(g) There should be national commissions for protecting human rights and the rights of minorities. The law and order enforcement machinery ought to be sensitive and vigilant. They must act with restraint and in close cooperation with different sectors of the society, the political leaders and the local citizens' committees. The police and the security force should be given education in human rights. If force has to be employed, it should be proportional to the requirement and not excessive.

36. The world is one and peace and human rights are indivisible. North and South, regardless of their differing perceptions, social systems, ideologies

or beliefs, must join in a common endeavour to usher in a non-violent, democratic world where the sovereignty of nations and the dignity of individuals can fully be protected and within which the material and spiritual potential of human civilization can fully be realized. Internationally recognized human rights and fundamental freedoms, whether they be civil and political or economic, social and cultural, are universal, inalienable and inviolable, without any hierarchy among them. Equally, human rights and peace are inseparable. A time has come not merely to look at the interrelationship between human rights and peace but to promote and foster the whole culture of peace and human rights in a climate of tolerance and harmony.

37. The United Nations has recently come to play its expected role in accordance with the principles and purposes of the Charter, in particular in resolving conflicts dealing with the breach of or threat to security. A study of the interrelationship between international peace and the effective realization of all human rights, in particular the rights to life and to development, should seek to relate human rights with other relevant areas of United Nations activities, particularly international peace, disarmament and development, and to incorporate the human rights aspect into the emerging world order.

38. Particular emphasis could be laid on considering ways and means by which the United Nations, through its organs and agencies, could help foster a universal culture of human rights, thereby contributing to strengthening of international peace and security in a climate of openness, confidence and cooperation. By way of example, the change in the international climate mandates greater transparency among nations to enhance mutual trust and confidence, thereby promoting international peace for the effective realization of human rights. In practical terms, this would imply, inter alia, that all relevant information on military expenditure should be provided by all States Members of the United Nations, as per the guidelines and norms that may be laid down on this issue by the United Nations.

39. The proposed study should not principally involve itself in a descriptive review of the relationship between international peace and human rights. This has already been complied and presented to the Sub-Commission. What is required is a synthesizing effort that brings out the manner in which international peace and human rights are inextricably intertwined and to spell out the practical implications for purposive action by the United Nations in the human rights field.

40. In the process of elaborating such a synthesis, the proposed study could also examine how violations of human rights emerge from underlying economic and social factors such as inequality and uneven development, both within and among nations. This would necessarily encompass the linkage between peace and human rights and development.

41. Both international peace and the realization of human rights are the first charge on every society; they are binding obligations of all States. The importance of enhanced multilateral cooperation in the promotion and protection of human rights is self-evident in this context. A detailed study on the interrelationship between international peace and human rights could explore this area further. The outcome of such a study could eventually be

translated into a programme of action. Based on the conclusions of the study, the Sub-Commission could also consider preparation of a declaration on the interrelationship between international peace and human rights.

42. Should the Sub-Commission decide in favour of mandating the proposed study, it would be desirable for it to debate this issue within the Sub-Commission so that fresh ideas on it could emerge for incorporation in the study and the principal aspects of the subject to be covered in the study could be clearly delineated.